

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| THE TARIFF FILING OF GTE SOUTH |) | |
| INCORPORATED TO ESTABLISH CUSTOM |) | CASE NO. 90-096 |
| LOCAL AREA SIGNALING SERVICE |) | |

O R D E R

On March 23, 1990, GTE South Incorporated ("GTE South") filed its proposed tariff to establish Custom Local Area Signaling Service ("CLASS") as a new service offering. The CLASS tariff includes Caller ID service which enables subscribers to view the telephone number of incoming calls. GTE South is the first company to propose the service in Kentucky. The service is offered in other jurisdictions where it has generated significant publicity and controversy because of privacy concerns. On June 5, 1990, the Commission notified all law enforcement agencies in GTE South's service areas of the proposed tariff because of possible concerns about the impact of Caller ID on undercover police investigations or other law enforcement related matters.

The Attorney General ("AG") and the Lexington-Fayette Urban County Government ("LFUCG") have both intervened in this proceeding. A public hearing was held on September 7, 1990. Dr. Mark N. Cooper, president of Citizens Research, testified on behalf of the AG. Clyta M. Dillon, senior product manager-Network

Services and Dr. Sue W. Elseewi, staff administrator in Market Research, both with GTE Telephone Operations, testified on behalf of GTE South. J. Frank Fryman, division director of Emergency Communications, provided comments on behalf of the LFUCG.

On April 19, 1990, the Commission suspended the tariff pursuant to KRS 278.190 until September 23, 1990 to investigate its reasonableness. By letter received September 20, 1990, GTE South agreed to a two-week extension of the suspension period until October 8, 1990.

The offering consists of 10 new individual services and 2 service discount packages. These services are designed to afford subscribing customers greater control over their calls, as they would allow customers to screen and manage incoming and outgoing calls via their local telephone network. For example, CLASS includes services which allow customers to: (1) automatically return a call to the last number which called them; (2) block, accept, or forward calls from only certain telephone numbers; and (3) distinguish calls from certain telephones through special ringing or call waiting tones. The new services are dependent on the calling number delivery capability of the out of band signaling architecture, commonly known in the telecommunications industry as Common Channel Signaling System 7 or Signaling System 7 ("SS7").

As a part of the CLASS tariff, GTE South is also proposing Protected Number Service.¹ This is being proposed at a \$6.00 per month rate and will be primarily used by its subscribers to prevent the subscriber's current number from being passed to calling number identification devices ("CNID") so that it is not displayed when placing calls to subscribers of Caller ID or announced during voice announcement on GTE's two other proposed features, automatic call return or call block. Subscribers of this service will be provided with two telephone numbers for their one telephone line--their current number and a new nonpublished number. When a subscriber to this service makes a call to a subscriber of Caller ID, the new nonpublished number is the only number that will be revealed to the Caller ID subscriber. The service works the same for the voice announcements during the use of automatic call return or call block. Additionally, if you are a subscriber to protected number service, your phone will ring distinctively depending on whether the caller is using your current number or your new nonpublished number. If you subscribe to this service, your telephone will ring with two long rings if the person calling you is using your new nonpublished number,

¹ Protected Number Service is nearly identical to GTE South's Smart Ring service, which is usually targeted towards families with teenagers as it allows parents to distinguish between their calls and their children's calls. The major difference between the two is the publishing of the telephone number. GTE South originally proposed a rate of \$8.90 per month for protected number service, but revised this during the hearing to \$6.00 per month, equivalent to the rate for smart ring service.

which would alert you to the fact that this may be an unwanted caller who has obtained this new number on their Caller ID display or with automatic call return service.

The major issue confronting the Commission is whether the proposed Caller ID service is reasonable due to privacy concerns without the additional requirement of providing a per call blocking option. Per call blocking would allow the subscribers to block their number from being forwarded to the called party's caller ID display by dialing extra digits when placing a call. It is the AG and LFUCG's position that Caller ID should not be authorized by the Commission without requiring GTE South to make blocking available to every customer at no cost. GTE South's position is that their tariff as proposed is reasonable without any blocking option especially since customers can purchase the protected number service and maintain their right to privacy and any anonymity as they wish.

As a result of a related tariff filing, GTE South conducted a 45 day market trial of CLASS in Elizabethtown and South Hardin, Kentucky, in which approximately 1000 randomly selected subscribers were offered different combinations of CLASS free of charge. Law enforcement and social service agencies were offered Protected Number Service free of charge. In addition to obtaining marketing information and customer reactions to CLASS, the trial was intended to provide GTE South the ability to measure the technical effects of the service on its network.

The AG contends that if Caller ID is to be offered at all, it should only be offered with free per call blocking, referred to as

number forward blocking in the testimony presented by the AG. The AG recommends that this additional function be added as it would allow customers to preserve the privacy of their telephone numbers, while also preserving the functionality and usefulness of the overall SS7 technology. Because of the broad impact of Caller ID and the fact that subscribers do not now have to reveal their numbers when they place a call, the AG recommends that number forward blocking be offered to subscribers on a per-call basis at no charge.² The AG's opinion is that as an incremental service, the costs are not great and since it is Caller ID that creates the problem, any costs associated with number forward blocking should be attributed to Caller ID. The AG opines that this should not necessitate an increase in the rates for Caller ID as it has already been priced far above costs.³

GTE South contends that if customers have only an infrequent need to place an anonymous call, they could do so by placing the call through the operator or by using a public phone. GTE South believes that each of these alternatives offer some deterrent to the harassing caller and especially to annoyance calls made by children.⁴ GTE South feels that there is no technical obstacle in providing Calling Number Delivery Blocking; however, its opinion is that number forward blocking does not provide an effective

² Prefiled Direct Testimony of Dr. Mark N. Cooper, page 4.

³ Ibid, page 38.

⁴ Prefiled Direct Testimony of Clyta M. Dillon, page 4.

means of protecting the disclosure of a calling party's telephone number in all circumstances. It notes that on direct-dialed interexchange calls, the originating office automatically identifies the number of the calling party. This capability is referred to as Automatic Number Identification ("ANI") and is required for both routing and billing of telecommunications traffic. ANI is furnished to interexchange carriers as a feature of some types of originating switched access services and may also be used on 800 calls.⁵ Anyone who subscribes⁶ to these services will have ANI delivered to them, whether or not the call was placed using number forward blocking. For example, if a toll call is placed between areas which have SS7 capabilities and if the called party has Automatic Call Return, the return call will necessitate a toll record which would be disclosed in the billing of the call-returning party.⁷

GTE South objected to the provision of number forward blocking without charge.⁸ GTE South noted that to offer it at no charge would require GTE South to equip the lines of all customers, where CLASS is available, with the number forward blocking feature. It referred to the AG's testimony at page 21,

5 Ibid, page 5.

6 Although access services are designed for interexchange carriers, most tariffs do not limit their use solely to such carriers.

7 Prefiled Direct Testimony of Clyta M. Dillon, pages 6 and 7.

8 Rebuttal Testimony of Clyta M. Dillon, page 8.

which indicated that only 33 percent of surveyed customers in Pennsylvania would want the service if it was provided free and that most of these customers were willing to pay for the service.

The Division Director of Emergency Communications with LFUCG provided public comment and expressed concerns that in addition to undercover work, police officers must sometimes make work-related calls from home. He also expressed concerns that Caller ID services could compromise the security of spouse abuse centers. He felt that many of the advantages of Caller ID are available through the other services. Also noted was that CLASS would initially add to the volume of work of law enforcement agencies, but this would be welcomed. He noted the frustration resulting from limitations in the current technology which allowed only a limited ability to respond to complaints. He felt that call tracing capabilities would allow law enforcement agents to successfully complete investigations in a large percentage of the cases. He noted that as the general public becomes aware of the new call tracing capabilities, the work load could eventually be reduced.

There was no direct response to the Commission's notification to law enforcement agencies of the proposed tariff. However, there was a response as a result of the Elizabethtown trial. A letter dated August 23, 1990 was received from Ruben Gardner, Chief of Police, Elizabethtown, indicating that he found the system to be very useful from a law enforcement and personal viewpoint. It was brought to his attention by a teacher, who was getting harassing calls, and who was also in the trial program.

Caller ID service allowed her to identify the persons making the calls which enabled the police department to put a stop to them.

GTE South, the AG, and LFUCG filed briefs concerning the legal issues in this proceeding on August 21, 1990. GTE South establishes a framework for addressing privacy issues in its brief by separately focusing on the person placing the telephone call and the person receiving the telephone call. In GTE South's opinion, the Caller ID service protects the privacy of the called party and that protection should outweigh any burden imposed on the calling party to take the available steps to protect anonymity.⁹ Thus, GTE South urges the Commission to adopt its tariff proposal as filed.

On the other hand, the AG contends that Caller ID without appropriate blocking provisions violates reasonable privacy expectations by endangering anonymity and causing the release of one's telephone number without consent.¹⁰ Likewise, LFUCG believes that legally the Commission should make blocking available to every customer at no cost if it permits implementation of the CLASS tariff.¹¹

After careful review of the legal issues addressed in the briefs, the Commission finds that GTE South's proposed CLASS tariff with the addition of number forward blocking at no cost to

⁹ GTE South's Brief, page 8.

¹⁰ AG's Brief, page 2.

¹¹ LFUCG's Brief, page 3.

the ratepayer does not violate state or federal law. Neither the AG nor LFUCG objected to the approval of GTE South's CLASS tariff with the addition of number forward blocking at no cost on a per-call basis.

The Commission, while recognizing the enormous potential of CLASS, concludes that subscribers should have access at this time to free number forward blocking on a per-call basis. Per-call blocking would allow customers to block number forwarding only when it is sufficiently important to them to dial the extra digits. This is a reasonable compromise between privacy protection and the value of Caller ID services.

The Commission has reviewed the costs of number forward blocking and notes that many of the costs incurred are because GTE South did not elect to provide the service when it made preparations to offer CLASS. For example, over 50 percent of the monthly costs for number forwarding blocking is for "Additional Literature Development." If GTE South had included number forward blocking in its proposed CLASS tariff, it is doubtful that these costs would have been incurred. The Commission recognizes the reality of these costs, but rejects the idea that these costs are attributable to number forward blocking. Instead, these costs are attributable to Caller ID services and the other CLASS options which may reveal a caller's number and to the fact that number forward blocking was not developed at the same time as the remaining CLASS options. As GTE South expands its CLASS offering to other areas, it is unlikely that the incremental costs of

number forward blocking will be significant if it is deployed at the same time as the other services.

As GTE South believes that the majority of customers will not request number forward blocking, the Commission will not require that all access lines be equipped to provide the service, but only for those customers who request the service in areas where CLASS will be provided. However, if a significant number of customers do request the service, it may be more economical to equip all access lines.

GTE South should inform subscribers of the availability of number forward blocking and future directories should include this information as well as directions for its use. To adequately inform subscribers, GTE South should provide at least three bill inserts over a three-month period, at least one of which must be received prior to the availability of the new CLASS services. Additionally, GTE South should file an advanced copy of the insert with the Commission for its consideration.

Having reviewed and considered all arguments concerning the reasonableness and legality of the CLASS service offering, the Commission finds that the tariff is reasonable and is not violative of state and federal law and therefore should be approved with the certain specific modifications discussed herein. Having been otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. GTE South's CLASS tariff is approved as modified herein.

2. Number forward blocking on a per-call basis shall be available free of charge to all GTE South customers and exchanges in which the CLASS service is to be offered.

3. GTE South shall inform its subscribers of the availability of number forward blocking through the provision of at least three bill inserts over a three-month period, one of which must be received by the subscribers prior to the availability of the new CLASS services.


4. GTE South shall file an advanced copy of the bill insert with the Commission for its consideration.


5. Future directories shall include information concerning number forward blocking including directions for its use.

6. Tariff sheets containing all modifications ordered herein shall be filed with the Commission within 30 days of the date of this Order.

Done at Frankfort, Kentucky, this 8th day of October, 1990.

PUBLIC SERVICE COMMISSION


Chairman


~~Vice-Chairman~~

~~Commissioner~~

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 90-268 DATED OCTOBER 8, 1990.

The following rates and charges are prescribed for the customers in the area served by Judy Water Association, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

MONTHLY RATES

GALLON INCREMENT

COST PER 1000 GALLONS

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|----------------|------------------|
| FIRST 1000 | \$ 12.00 MINIMUM |
| NEXT 4000 | \$ 5.00 |
| NEXT 5000 | \$ 4.50 |
| ALL OVER 10000 | \$ 4.00 |